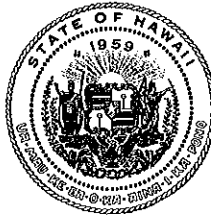
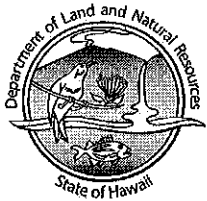


LINDA LINGLE  
GOVERNOR OF HAWAII



**STATE OF HAWAII  
DEPARTMENT OF LAND AND NATURAL RESOURCES**

POST OFFICE BOX 621  
HONOLULU, HAWAII 96809

November 29, 2007

LAURA H. THIELEN  
CHAIRPERSON  
BOARD OF LAND AND NATURAL RESOURCES  
COMMISSION ON WATER RESOURCE MANAGEMENT

RUSSELL Y. TSUJI  
FIRST DEPUTY

KEN C. KAWAHARA  
DEPUTY DIRECTOR - WATER

AQUATIC RESOURCES  
BOATING AND OCEAN RECREATION  
BUREAU OF CONVEYANCES  
COMMISSION ON WATER RESOURCE MANAGEMENT  
CONSERVATION AND COASTAL LANDS  
CONSERVATION AND RESOURCES ENFORCEMENT

FORESTRY AND WILDLIFE  
HISTORIC PRESERVATION  
KAHOOLAWE ISLAND RESERVE COMMISSION  
LAND  
STATE PARKS

Chairperson and Members  
Board of Land and Natural Resources  
State of Hawai'i  
Honolulu, HI 96813

Land Board Members:

**SUBJECT: REQUEST FOR APPROVAL TO ENTER INTO A REBURIAL AGREEMENT  
WITH JEFFREY BORGES, MARTINE BORGES AND TROY AND  
JENNIFER LINDELL FOR THE HUMAN SKELETAL REMAINS  
REINTERRED ON THEIR PROPERTY AT WAIPOULI AHUPUA'A,  
KAWAIHAU DISTRICT, ISLAND OF KAUAI AT [TMK (4) 4-3-009:049]**

Submitted for your consideration is a request to enter into a reburial agreement with Jeffrey and Martine Borges and Troy and Jennifer Lindell to implement the conditions agreed upon by the landowner and accepted by the State Historic Preservation Division.

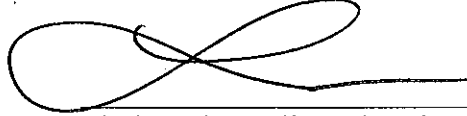
Section 6E-43, and 6E-43.6, Hawaii Revised Statutes, require the State to regulate the proper treatment of human skeletal remains over fifty years old, at any site other than a known, maintained, actively used cemetery. In order to provide perpetual protection for the newly established burial site for the skeletal remains, its location will be recorded in the Bureau of Conveyances together with the attached Reburial Agreement. This Reburial Agreement establishes a permanent preservation zone, access rights for lineal and cultural descendants and states that the burial will not be willfully disturbed by the landowner, its successors and assigns.

The office of the Attorney General has conducted a review of the Reburial Agreement and all suggested amendments were incorporated into the attached agreement.

## RECOMMENDATION

That the Board authorize Chairperson Thielen to execute the attached Reburial Agreement with Jeffrey Borges, Martine Borges and Troy and Jennifer Lindell.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'Linda Kaleo Paik', written over a horizontal line.

Linda Kaleo Paik, Cultural Specialist  
Historic Preservation Division

APPROVED FOR SUBMITTAL:

A handwritten signature in black ink, appearing to read 'Laura Thielen', written over a horizontal line.

LAURA THIELEN, Chairperson  
Board of Land and Natural Resources



WHEREAS, the State, pursuant to Section 6E-43 and 6E-43.6, Hawai'i Revised Statutes, is responsible for regulating the proper treatment of human skeletal remains over fifty years old, at any site other than a known, maintained, actively used cemetery; and

WHEREAS, the parties desire to enter into this Agreement to rebury the human skeletal remains found on their property and.

NOW THEREFORE, in consideration of the above and the terms and conditions contained herein, the parties agree as follows:

1. The Landowner agrees to allow the skeletal remains of the ancestral Native Hawaiians to be reburied on the Landowner's property located at [TMK: (4) 4-3-009:049] and designated State Site No.50-50-30-5004 in perpetuity.

2. The Landowner, upon recommendation from the Department of Land and Natural Resources ("DLNR") and Kauai Ni'ihau Island Burial Council ("KNIBC") agrees to establish a preservation area of 25 square feet and establish a permanent preservation zone of forty feet from all exterior flanks of the structure.

3. The Landowner, upon recommendation from the DLNR and KNIBC, agrees to maintain the area of the reburial site.

4. The Landowner agrees to construct a traditional-styled platform over the burial.

5. The Landowner agrees to treat the exact location of reburial sites as confidential information as provided for by section 6E-43.5, Hawai'i Revised Statutes. The Landowner agrees to identify the location of the reburial sites on a map and provide such information to the Department of Land and Natural Resources, Division of Historic Preservation ("SHPD").

6. The Landowner agrees to permit any recognized descendants approved by the Landowner, SHPD and KNIBC access and arrangements to be made through mutual agreement between the landowner and descendants.

7. The Landowner, on behalf of itself and its successors and assigns, covenant and agree not to willfully disturb in any manner, or allow the disturbance of in any manner, the repose of the human skeletal remains reburied at its property at [TMK: (4) 4-3-009:049] .

8. In the event the Landowner learns that the human skeletal remains, or any part thereof, are unearthed by natural causes or otherwise, the Landowner agrees to immediately notify the Department of Land and Natural Resources, State Historic Preservation Division. The Landowner agrees not to handle the human skeletal remains in any manner. DLNR, upon the recommendation of the KNIBC, shall take proper action to secure the remains in place.

IN WITNESS WHEREOF, the STATE OF HAWAII, by its Board of Land and Natural Resources, has caused the Seal of the Department of Land and Natural Resources to be hereunto affixed and the parties hereto have caused this Agreement to be executed as of the day, month, and year first above written.

STATE OF HAWAII

By \_\_\_\_\_  
Chairperson, Board of Land and Natural Resources

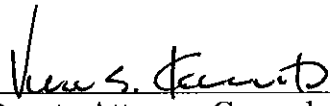
By \_\_\_\_\_  
Member, Board of Land and Natural Resources

LANDOWNERS

Jeffrey Borges  
Martine Borges  
Troy and Jennifer Lindell  
5804 East Brown Avenue  
Fresno, California 93727

By \_\_\_\_\_  
(Representative)

APPROVED AS TO FORM:

  
\_\_\_\_\_  
Deputy Attorney General

Dated: 12/4/07

STATE OF HAWAI'I

COUNTY OF

)  
) SS.  
)

On this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, before me personally appeared \_\_\_\_\_ to me known to be the person described in and who executed the foregoing instrument and acknowledged that \_\_\_\_\_ executed the same as \_\_\_\_\_ free act and deed.

\_\_\_\_\_  
Notary Public, State of Hawai'i

My commission expires: \_\_\_\_\_

L 3284357

**EXHIBIT "A"**

All of that certain parcel of land situate at Waipouli, District of Kawaihau, Island and County of Kauai, State of Hawaii, described as follows:

LOT 38, area 17,094 square feet, more or less, as shown on Map 4, filed in the Office of the Assistant Registrar of the Land Court of the State of Hawaii with Land Court Application No. 276 of Gaylord Parke Wilcox;

Together with an easement in the nature of a road right of way, to be used in common with others entitled thereto, over and across Lot 45, as shown on Map 4 of said Land Court Application No. 276;

Being the land(s) described in Transfer Certificate of Title No. 408,444 issued to HATSUME SHIMAMOTO and HERBERT TOYOOKA, as Trustees under the Will and of the Estate of Hisao Shimamoto, deceased, with full powers to sell, mortgage, lease or otherwise deal with the land.

Being the same premises conveyed to HATSUME SHIMAMOTO and HERBERT TOYOOKA, as Trustees under the Will and of the Estate of Hisao Shimamoto, deceased, by Deed dated February 23, 1993, and filed in the Office of the Assistant Registrar of the Land Court of the State of Hawaii as Land Court Document No. 2000446.

SUBJECT, HOWEVER, to the following:

1. Location of the seaward boundary in accordance with the laws of the State of Hawaii and shoreline setback line in accordance with County regulation and/or ordinance and the effect, if any, upon the area of the land described herein.
2. Discrepancies, conflicts in boundary lines, shortage in area, encroachments or any other matters which a correct survey or archaeological study would disclose.
3. Any unrecorded leases and matters arising from or affecting the same.
4. Any lien (or claim of lien) for services, labor or material arising from an improvement or work related to the land described herein.

# LAND COURT

TERRITORY OF HAWAII

LAND COURT APPLICATION 276

SUBDIVISION OF LOT 18 AS SHOWN ON MAPS  
INTO LOTS 19 TO 45 (INCLUSIVE)

AT WAIPOULI, PUNA, KAUAI, T. H.



Schuman Building  
Honolulu, T. H.  
June 6, 1947

Registered Professional Surveyor  
Certificate No. 151

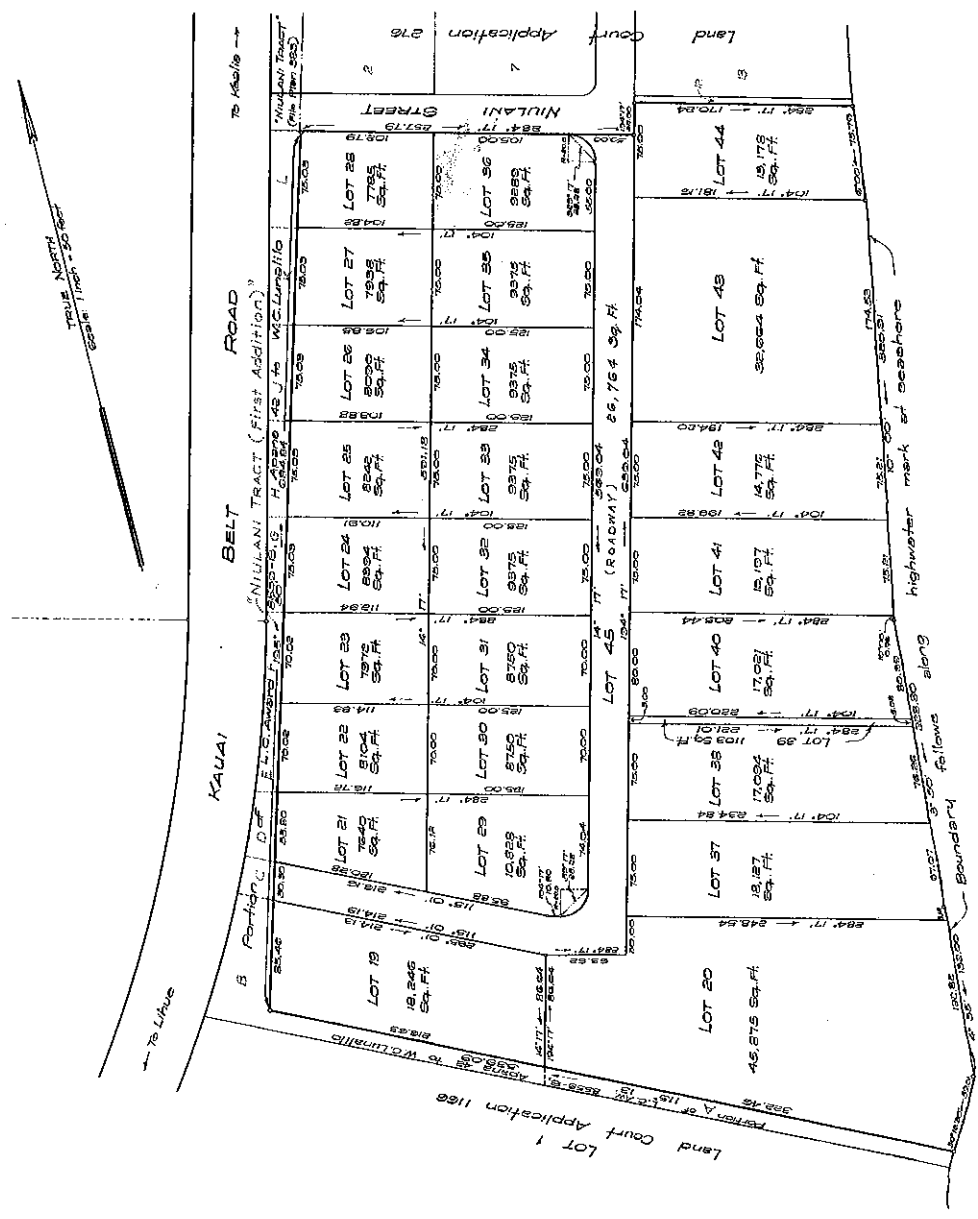
OWNER: LILLIAN CLAYTON BREWER

Owner's Certificate of Title: 3356

AUTHORIZED AND APPROVED BY ORDER OF  
THE JUDGE OF THE LAND COURT DATED 20th JUNE 1947.  
BY ORDER OF THE COURT

*[Signature]*  
REGISTERAR OF THE LAND COURT

Filed Sept. 3, 1947  
Charles W. Allen  
Attorney at Law



SEA